



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0445; FRL-8779-02-R4]

Air Plan Approval; SC; Revisions to Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC or Department), on April 24, 2020. The SIP revision updates the definition of “Spec. Oil (Specification Oil)” and makes minor updates to formatting and numbering. EPA is finalizing approval of these changes pursuant to the Clean Air Act (CAA or Act) and implementing federal regulations.

DATES: This rule is effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0445. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional

Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at febres-martinez.andres@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 24, 2020, SC DHEC submitted a SIP revision to EPA for approval that includes changes to South Carolina Regulation 61-62.1, Section I – *Definitions*.¹ First, SC DHEC's April 24, 2020, SIP revision includes minor updates to numbering and formatting. Second, the SIP revision updates the definition of "Spec. Oil (Specification Oil)" at Paragraph 97(a) within the definition of "Used Oil." Specifically, the revised definition of "Spec. Oil" would remove the phrase "Nickel – 120 ppm [parts per million] maximum," thus eliminating the nickel specification for "Spec. Oil." In the South Carolina SIP's definition of "Used Oil," "Spec. Oil" and "Non-Spec. Oil"² are listed as "[t]wo (2) types" of "used oil." Notably, the terms "Spec. Oil" and "Specification Oil" do not currently appear anywhere else in South Carolina's SIP outside of the definition of "Used Oil."

In a notice of proposed rulemaking (NPRM) published in the *Federal Register* on August 4, 2021 (86 FR 41914), EPA proposed to approve the aforementioned changes from South

¹ In the April 24, 2020, SIP revision SC DHEC also submitted to EPA changes to Regulations 61-62.1, Section II – *Permit Requirements*; 61-62.1, Section III – *Emission Inventory and Emissions Statement*; 61-62.1, Section IV – *Source Tests*; 61-62.1, Section V – *Credible Emissions*; 61-62.5, Standard No. 2 – *Ambient Air Quality Standards*; 61-62.5, Standard 5.2 – *Control of Oxides of Nitrogen (NOx)*; 61-62.5, Standard 7 – *Prevention of Significant Deterioration*; and 61-62.5, Standard 7.1 – *Nonattainment New Source Review (NSR)*. EPA will address these SIP revisions in separate actions.

² "Non-Spec. Oil (Off Spec Oil)" is defined as "[u]sed oil that does not meet the specification above." S.C. Code Regs. 61-62.1 sec. I (97)(b). Therefore, used oil that does not meet the definition of "Spec. Oil" is still considered "Used Oil." *Id.*

Carolina’s April 24, 2020, SIP revision. The details of South Carolina’s submittal and the rationale for EPA’s approval are further explained in the August 4, 2021, NPRM. Comments on the August 4, 2021, NPRM were due on or before September 3, 2021. EPA did not receive any comments, adverse or otherwise, on the August 4, 2021, NPRM.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina’s Regulation 61-62.1, *Definitions and General Requirements*, Section I – *Definitions*, state effective on April 24, 2020. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.³

III. Final Action

EPA is finalizing approval of revisions to the SIP-approved version of South Carolina Regulation 61-62.1, Section I – *Definitions*, state effective on April 24, 2020. EPA has determined that these revisions meet the applicable requirements of section 110 of the CAA and the applicable regulatory requirements at 40 CFR part 51.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices,

³ *See* 62 FR 27968 (May 22, 1997).

provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this final rule merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this final rule for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120 (Settlement Act), “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 21, 2021.

John Blevins,
Acting Regional Administrator,
Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP – South Carolina

2. Section 52.2120(c), is amended under the heading “Regulation No. 62.1” by revising the entry for “Section I” to read as follows:

§52.2120 Identification of plan.

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(c) * * *

EPA-Approved South Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Regulation No. 62.1	Definitions and General Requirements			
Section I	Definitions	4/24/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
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[FR Doc. 2021-23349 Filed: 10/27/2021 8:45 am; Publication Date: 10/28/2021]